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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,086	07/13/2005	Yoichiro Sako	268558US6PCT	6734
22850 7590 01/05/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER TOTH, KAREN E				
ART UNIT 3735		PAPER NUMBER		
NOTIFICATION DATE 01/05/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/542,086

Applicant(s)

SAKO ET AL.

Examiner

KAREN E. TOTH

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-19 and 21-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 7, 9-15 and 22 is/are allowed.
6) ☒ Claim(s) 1-6, 16-19, 21, 23 and 24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 1-6, 16-18, 19, 21, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Gavish (US 2004/0116784).

Regarding claim 1, Gavish discloses a data reproduction instructing apparatus comprising data reproducing means (element 36), organic information detecting means (element 32) that detects organic information of a predetermined time period (paragraphs [0032], [0059]), and instructing means (element 30) that outputs a signal of a period corresponding to the predetermined period (paragraph [0054]), receives a discrete input based on the output signal (paragraph [0057]), and starts reproduction of the data based upon a timing of the discrete input (paragraph [0058]).

Regarding claim 2, Gavish further discloses the data being audio or video data (paragraph [0033]).

Regarding claim 3, Gavish further discloses the organic information showing body motion, breathing, heartbeats, or respiration (paragraphs [0033], [0041], [0047]).

Regarding claim 4, Gavish further discloses the instructing means being an audio sound, buzzer, light-emitting device, or display (paragraphs [0031], [0033]).

Regarding claim 5, Gavish further discloses detecting the point between inspiratory and expiratory periods of respiration, and outputting the signal when the point is detected (paragraphs [0047], [0077]-[0079], [0104]).

Regarding claim 6, Gavish further discloses detecting a pulsation (paragraphs [0080], [0119]-[0121]) and instructing the timing of the data reproduction to start based upon the detected pulsation (paragraphs [0074]).

Regarding claim 16, Gavish discloses a data transmission apparatus comprising data transmission means (element 36), organic information detecting means (element 32) that detects organic information of a predetermined time period (paragraphs [0032], [0059]), and instructing means (element 30) that outputs a signal of a period corresponding to the predetermined period (paragraph [0054]), receives a discrete input based on the output signal (paragraph [0057]), and starts transmission of the data based upon a timing of the discrete input (paragraph [0058]).

Regarding claim 17, Gavish discloses a data transmitting apparatus comprising transmitting means for transmitting audio or video data over a network (paragraph [0188]), detecting means for detecting a start signal based on organic information received over the network (elements 30, 32; the "network" includes the circuitry within the device - thus, transmitting data from a sensor to the detecting means involves data being received over the network), means (element 30) that outputs a signal of a period corresponding to the predetermined period (paragraph [0054]) and receiving a discrete input based on the output signal (paragraph [0057]), and control means for controlling

transmission timing to start transmission of the audio or video data over the network based upon a timing of the discrete input (paragraph [0058]).

Regarding claim 18, Gavish discloses a data reproduction instructing apparatus comprising data recording means (element 41; paragraphs [0062]-[0064]), organic information detecting means (element 32) that detects organic information of a predetermined time period (paragraphs [0032], [0059]), and instructing means (element 30) that outputs a signal of a period corresponding to the predetermined period (paragraph [0054]), receives a discrete input based on the output signal (paragraph [0057]), and starts recording of the data based upon a timing of the discrete input (paragraphs [0058], [0062]-[0064]).

Regarding claim 19, Gavish discloses a data recording apparatus comprising means for recording audio or video data onto recording media (element 41; paragraph [0206] - the data being recorded may be audio data), means for detecting organic information (paragraphs [0031], [0033]), and means for controlling timing to start the recording of the audio or video data based upon the detected organic information (paragraphs [0062]-[0064]; element 41) and for allowing the recording means to record the detected organic information with the audio or video data (paragraph [0168]).

Regarding claim 21, Gavish discloses a method comprising detecting organic information during a predetermined period of data reproduction, outputting a signal of a period corresponding to the predetermined period, receiving a discrete input based on the signal, and starting a reproduction of the data based on a timing of the discrete input

and instructing timing to reproduce the data based upon the detected organic information (paragraphs [0031], [0033], [0054]-[0059], [0164]).

Regarding claim 23, Gavish discloses detecting organic information over a predetermined period (paragraphs [0031], [0161]), outputting a signal of a period corresponding to the predetermined period (paragraph [0057]), receiving a discrete input based on the signal (paragraph [0057]) and instructing timing to record data based upon the detected organic information (paragraphs [0058], [0062]-[0064], [0164]-[0167]).

Regarding claim 24, Gavish discloses detecting organic information (paragraphs [0031], [0161]), instructing timing to record audio or video data based upon the detected organic information (paragraph [0168]), and recording the audio or video data and the organic information onto a recording medium based on the timing (paragraphs [0062]-[0064], [0164]-[0167]).

3. Claims 1-4, 16, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tacklind (US 5626144).

Tacklind discloses reproducing and transmitting data with timing based upon detecting organic information of a predetermined period (column 5, lines 27-38), outputting a signal of a period corresponding to the predetermined period (column 5, lines 55-61), receiving a discrete input based on the signal (the trigger to generate patient reports), and starting reproduction or transmission of data based on the timing of the input (column 5, lines 61-63), where the information includes breathing and

heartbeats, and the data includes audio and visual data (column 4, lines 2-26 and 48-53; column 5, lines 29-38 and 55-65; column 7, lines 46-59; column 8, lines 36-63).

Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to anticipate or make obvious the inventions of claims 7-15 and 22, including, *inter-alia*, detecting an interval of low energy in audio or video data, and controlling the timing of a reproduction of the data based on detected organic information, with the detection delaying the timing of reproduction by the duration of the low energy interval, in combination with all other limitations in the claims.

Response to Arguments

5. Applicant's arguments with respect to claims 1-6, 16-18, 19, 21, 23, and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN E. TOTH whose telephone number is (571)272-6824. The examiner can normally be reached on Mon thru Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia C. Mallari/
Primary Examiner, Art Unit 3735

/K. E. T./
Examiner, Art Unit 3735